

REMARKS

By this amendment, claim 1 and claim 6 are amended. No new matter has been introduced. Claims 1-13 are currently pending. Claim 2 has been allowed. Claims 3-5 have been withdrawn from consideration.

Interview Summary

Applicant thanks the Examiner for the telephone interview with Applicant's representative on August 15, 2006. During the interview, claim 6 was discussed. Specifically, the Examiner opined that the claim reads on the figures of Gignac (6,125,956) because any of the wheels in Gignac could be considered to be the first wheel. It was agreed by the Examiner that an amendment to better structurally define the first wheel or the connection point of same would place the claim in condition for allowance.

Claims 1 & 12

The Examiner has rejected claims 1 and 12 as being anticipated under 35 U.S.C. §102(e) by Lykken et al. (6,318,484). It is not entirely clear what structure in Lykken the Examiner asserts as the first wheel. In his office action, the Examiner states:

Lykken et al. discloses a track assembly having all of applicant's claimed structure including a top tandem arm 102, a bottom tandem arm 193, an adjustable frame (including members 194 & 196 shown in figure 6) for adjustably spacing front and rear idler wheels 164 & 162, and a belt 144 as shown in figures 3 & 4.

(05/01/2006 Office Action at 2). This is unclear because the frame structure identified in claim 1 & 12 is for “adjustably spacing *first and second wheels*,” and not the front and rear idler wheels which are connected to the bottom tandem arm. In addition, the Examiner does not identify what structure in Lykken represents the first and second wheels. Nonetheless, it appears that the

Examiner asserts 162 and 164 as the front and rear idler wheels. In that case, it would appear that the Examiner asserts drive wheel assembly 100 as the first wheel.

To anticipate, a single prior art reference must disclose each element of the claim under consideration. W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540 (Fed. Cir. 1983).

Claim 1 has been amended herein to clarify that the first wheel is positioned at one end of the frame. Lykken does not teach this limitation. Drive wheel assembly 100 is not positioned at one end of the frame. Therefore, Lykken does not teach or suggest all of the limitations of claim 1 or its dependent claim 12. Accordingly, claims 1 and 12 are not anticipated by Lykken.

Applicant respectfully requests the Examiner's withdrawal of the rejection of claims 1 and 12.

Claims 6-8

The Examiner has rejected claims 6-8 as being anticipated under 35 U.S.C. §102(e) by Gignac (6,125,956).

To anticipate, a single prior art reference must disclose each element of the claim under consideration. W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540 (Fed. Cir. 1983).

Claim 6 has been amended herein to clarify that the first wheel is positioned at one end of the wheel frame. Further, this first wheel is connected to the wheel frame via a tandem arm which also supports the first idler wheel structure such that said first idler wheel structure and said first wheel rock about said first pivot axis. Gignac does not disclose any such feature. Gignac does not include a pivotal tandem arm that supports both an idler wheel structure and a wheel positioned at one end of the wheel frame. The structure the Examiner asserts as the first wheel is not positioned at one end of the wheel frame. Moreover, the wheel structures in Gignac that are positioned at the ends of the wheel frame ("left toothed wheel 50", "return wheel 92")

are not pivotal, but rather rigidly attached to the frame. Therefore, claim 6, and claims 7-8 which are dependent upon claim 6 and include all the elements of claim 6 therein, are neither taught nor suggested by Gignac. Accordingly, Applicant request that the rejection of claims 6-8 be withdrawn.

Claims 9-11, 13

The Examiner has objected to claims 9-11 and 13 as being dependent upon a rejected base claim. Claims 9-11 are dependent on claim 6. Claim 13 is dependent on claim 1. In light of the foregoing amendments and remarks, allowance of claims 9-11 and claim 13 is proper.

Conclusion

Taken together, Applicant respectfully submits that the device claimed by the instant application contains novel properties not disclosed by the prior art references, and that the independent claims, and the claims dependent thereon are not anticipated nor obvious over the cited references. Moreover, Applicant's amendments herein place this application in a condition for allowance. Accordingly, withdrawal of the Examiner's rejections is respectfully requested.

In view of the above amendments and remarks, it is respectfully submitted that this Application is in condition for allowance and such action is earnestly solicited. However, should the Examiner have any further point of objection, the Examiner is urged to contact the undersigned so that a mutual agreement with respect to claim limitations can be reached.

Respectfully submitted,

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